

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF APPEALS AND INTERFERENCES**

In re Application of: Dreher, *et al.*

Serial No.: 09/482,773

Group Art Unit: 1617

Filed: January 13, 2000

Examiner: YU, Gina

For: Optical Makeup Composition

**RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF
PURSUANT TO 37 CFR 41.37**

Commissioner For Patents
Attention: Board of Patent Appeals and Interferences
Alexandria, Virginia 22313-1450

Sir:

The Notification of Non-Compliant Appeal Brief of August 21, 2009, objects to the statement of the Status of All of the Claims, and the Summary of Claimed Subject Matter, as presented in the Appellant's Brief of December 9, 2008. Specifically, the Notification indicates that the claims on appeal have not been identified in the Status of All of the Claims, and further that the Summary of Claimed Subject Matter includes a typographical error – independent claim 35 is inadvertently indicated as claim 12.

The Appellants herewith provide the corrected portions of the Appeal Brief.

STATUS OF ALL OF THE CLAIMS

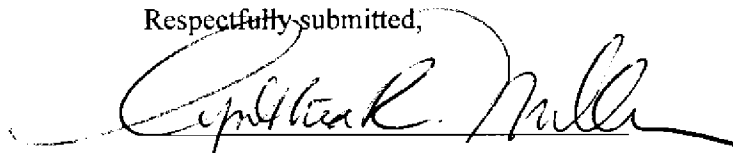
Claims 1 to 11 and 35 remain pending and finally rejected in this application. Claims 12-34 are cancelled. Claim 35 had been erroneously numbered as (new) claim 12, as submitted in the Appellant's response of December 20, 2007, in reply to the non-final office action of May 11, 2007. That numbering is corrected here. The appealed claims, claims 1 to 11 and 35, are those of the response mailed on December 20, 2007, which were considered and entered by the Examiner in the office action of May 29, 2008. The appealed claims are again presented herewith in the Claims Appendix. No claims were allowed, withdrawn or objected to.

SUMMARY OF CLAIMED SUBJECT MATTER

The invention of independent claim 1 is a method of reducing the appearance of lines and wrinkles associated with aging of the skin, which comprises applying to the skin exhibiting the age-associated lines and wrinkles a makeup composition comprising an interference pigment having a blue or violet reflectance, combined with at least one metal oxide pigment. (See page 2, lines 9-12 of the present specification as originally filed.)

The invention of independent claim 35 is a method of reducing the appearance of lines and wrinkles associated with aging of the skin, which comprises applying to the skin exhibiting the age-associated lines and wrinkles a makeup composition comprising an interference pigment having a blue or violet reflectance, combined with at least one metal oxide pigment and at least one inorganic, non-matte, non-spherical powder in an amount in the range of about 2 to about 10 percent by weight based on the total weight of the composition. (See page 2, lines 9-14 and page 4, lines 28-30 of the present specification as originally filed.)

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Cynthia R. Miller", is written over a horizontal line.

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